

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number \_\_\_\_\_

Meeting Type: Regular

Meeting Date: 4/24/2014

Action Requested By:  
Community  
Development

Agenda Item Type  
Resolution

Subject Matter:

Agreement between the City of Huntsville and Kevin & Wanda McIntosh for the purchase of property located 2204 Seminole with Community Development Block Grant funds.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into a Real Estate Agreement between the City of Huntsville Department of Community Development and Kevin & Wanda McIntosh.

**Note: If amendment, please state title and number of the original**

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

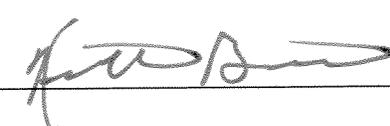
To enter into a contract utilizing Federal Community Development Block Grant funds to acquire property in the Lowe Mill neighborhood for a neighborhood park.

Associated Cost:

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Select...

Department Head: \_\_\_\_\_



Date: \_\_\_\_\_

4/17/14

ROUTING SLIP  
CONTRACTS AND AGREEMENTS

Originating Department: Community Development

Council Meeting Date: 4/24/2014

Department Contact: Scott Erwin

Phone # 256-427-5423

Contract or Agreement: Contract

Document Name: Real Estate Cash Sales Contract 2204 Seminole

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

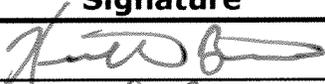
Account Number:

**Procurement Agreements**

Select...	Select...
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**Grant-Funded Agreements**

<b>Federal HUD</b>	<b>Grant Name:</b>
	Community Development Block Grant-CDBG

Department	Signature	Date
1) Originating		4/17/14
2) Legal	Mary C. Cato	4/21/2014
3) Finance 		4/24
4) Originating		
5) Copy Distribution		
a. Mayor's office (2 copies)		
b. Clerk-Treasurer (Original & 2 copies)		
c. Legal (1 copy)		

**RESOLUTION NO. 14 - \_\_\_\_\_**

**WHEREAS**, the City of Huntsville desires to acquire certain real property using grant funds from the United States Department of Housing and Urban Development (HUD); and

**WHEREAS**, the City desires to utilize the said real property for a public park;

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama that the Mayor be and he is hereby authorized to enter into a real estate sales contract with Kevin McIntosh & Wanda McIntosh on behalf of the City of Huntsville, which said Agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Cash Sales Contract", consisting of five (5) pages, and the date of April 24, 2014, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the office of the City Clerk-Treasurer of the City of Huntsville, Alabama; and

**BE IT FURTHER RESOLVED**, that the Mayor and the Clerk-Treasurer shall be authorized to execute any and all further documents as necessary to complete the closing on the said real property.

**ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
President of the City Council of  
the City of Huntsville, Alabama

**APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor of the City of Huntsville,  
Alabama



# CASH SALES CONTRACT



The undersigned Purchaser(s) City of Huntsville Community Development hereby agree to purchase and the undersigned Seller(s) Kevin McIntosh and Wanda McIntosh hereby agree to sell and convey the following described real estate together with all improvements, shrubbery, plantings and appurtenances, including but not limited to those items described in paragraph 9 herein, on the terms and conditions described below. If any personal items remain with the property, they are left "as is" and at no value to the property.

Address Seminole Drive SW 2204 City Huntsville County Madison State AL Zip 35816  
 Lot 3,4,5 Block 176 Subdivision Lowe Corp. ADD Addition \_\_\_\_\_

Legal Description: \_\_\_\_\_

1. TOTAL PURCHASE PRICE shall be ..... \$ 110,000

Earnest money ..... \$ \_\_\_\_\_

Balance due from Purchaser at closing (cash or certified funds) ..... \$ \_\_\_\_\_  
 Buyer to deliver proof of funds to Seller within 2 day(s) of Binding Agreement Date.

2. SETTLEMENT CHARGES: Attorney closing fee, title examination fee, and deed recording fee to be paid by: PURCHASER

Deed preparation to be paid by Seller.

- (a) SURVEY: It is recommended that whenever title is passed a new survey be obtained which meets the current standards of the Alabama Society of Professional Land Surveyors. If Purchaser or attorney requires a survey the cost of such is to be paid by Purchaser.
- (b) CONVEYANCE: Seller(s) will convey to Purchaser(s) a General Warranty deed conveying a good and merchantable title free from any and all encumbrances except current ad valorem taxes, recorded restrictions, easements of record, applicable zoning restrictions, any liens or encumbrances assumed or incurred in this transaction and such state of facts as would be disclosed by an accurate survey of the property.
- (c) TITLE INSURANCE: An owner's title insurance policy ("enhanced" policy if property qualifies) will be furnished at closing as part of this contract. The premium for the owner's title policy, simultaneous issue fee and binder fee will be divided equally between Seller and Purchaser.
- (d) CLOSING AND POSSESSION: The sale shall be closed and deed delivered on or before 04/30/2014 except that Seller shall have a reasonable length of time within which to perfect title or cure defects in title to said property. Possession to be given 04/30/2014. NOTE: If Purchaser is given possession prior to closing, or if Seller is to remain in property after closing, it is recommended that the parties enter into an *Occupancy Agreement* or *Agreement for Retention of Possession*.

### 3. AGENCY DISCLOSURE:

The Listing Company is LEGEND REALTY

(Two blocks may be checked)

- An agent of the Seller.  An agent of the Buyer.
- An agent of both Seller and Buyer, and is acting as a limited consensual dual agent.
- Assisting the Buyer as a transaction broker.
- Assisting the Seller as a transaction broker.

The Selling Company is: LEGEND REALTY

(Two blocks may be checked)

- An agent of the Seller.  An agent of the Buyer.
- An agent of both Seller and Buyer, and is acting as a limited consensual dual agent.
- Assisting the Buyer as a transaction broker.
- Assisting the Seller as a transaction broker.

Receipt of the Real Estate Brokerage Services Disclosure form is acknowledged.

→ Purchaser(s) initials   Seller(s) initials KW WM

### 4. CONDITION OF PROPERTY:

(a). Seller agrees to deliver all built-in appliances, heating, cooling, electrical, gas, and plumbing systems in normal operating condition when title is passed or possession is given, whichever occurs first. It is Purchaser(s) responsibility to make any inspection he/she deems necessary prior to occupancy or closing. It is the Seller(s) responsibility to have the utilities turned on if they have been turned off and to maintain utilities through the date of closing. Seller to leave the house, garage, and outbuildings reasonably cleaned and free of debris.

(b). EPA/HUD LEAD-BASED PAINT CONTINGENCY FOR PRE-1978 CONSTRUCTION ONLY: This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards at Purchaser's expense until 9 p.m. on the \_\_\_\_\_ calendar day (no more than 10 days) after acceptance of this contract by all parties. (In fact lead-based paint that is in good condition is not necessarily a hazard. See EPA pamphlet *Protect Your Family From Lead in Your Home*). This contingency will terminate at the above predetermined deadline unless Purchaser (or Purchaser's salesperson) delivers to Seller (or Seller's salesperson) a written contract addendum listing the specific existing deficiencies, and corrections needed, together with a copy of the inspection and/or risk assessment report. Seller may, at Seller's option, within 2 days after delivery of the report, elect in writing whether to correct the condition(s) prior to closing. If Seller will correct the condition(s) Seller will furnish Purchaser with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of closing period. If Seller elects not to make repairs, or if Seller makes a counter offer, Purchaser(s) will have N/A days to respond to the counter offer, or remove this contingency and take the property "as is", or this contract will become void. Purchaser(s) may remove this contingency at any time without cause. The EPA/HUD Seller's Disclosure is required by Federal law to be attached to this contract and is made a part thereof.

→ Purchaser(s) hereby removes this contingency. Date 03/11/2014 Purchaser(s) initials

Purchaser(s) acknowledges receipt of the EPA/HUD pamphlet *Protect Your Family From Lead in Your Home*.

→ Purchaser(s) initials

(c). OFFICIAL ALABAMA WOOD INFESTATION INSPECTION REPORT: Purchaser will obtain an Official Alabama Wood Infestation Report from a licensed exterminating company in accordance with VA/FHA/lender regulations. Said report to be presented to the closing attorney no less than 7 working days prior to closing. Purchaser will have no obligation to make any corrections. Corrections to be made by Seller unless otherwise

\_\_\_\_\_  
 President of the City Council of the  
 City of Huntsville, Alabama  
 Date: April 24, 2014

mutually agreed upon by all parties. Follow up inspections are the responsibility of the Purchaser. Transfer of Seller's termite contract will suffice for Official Alabama Wood Infestation Report if acceptable to Purchaser. Any applicable transfer fees will be paid by Purchaser.

(d). **ADDITIONAL PROPERTY INSPECTION(S)**: Purchaser  does  does not require property inspections other than those in 4(a) and 4(b). If inspection(s) are required an *Inspection Addendum* is attached. Purchaser agrees to indemnify Seller and *all real estate licensees* for the acts of himself, his inspectors and/or representatives in exercising his rights under this Agreement. Purchaser's obligations to indemnify Seller and all real estate licensees shall also survive the termination of this agreement by either party.

(e). Neither the Seller, nor any Licensee makes any representation or warranties regarding the condition of the property except to the extent expressly set forth herein. Purchaser has the obligation to determine any and all conditions of the property material to Purchaser's decision to buy the property, including, but not limited to, the condition of the heating, cooling, electrical, gas, and plumbing systems, and any built-in appliances; the roof and basement, including leaks therein; the age, size or area of the property, construction materials, including floors; structural condition; utility and sewer or septic tank availability or condition; subsurface conditions, including radon and other potentially hazardous materials and/or gases; flood insurance requirements; any noise exposures; and any matters affecting the character of the neighborhood.

(f). **FINAL INSPECTION**: Purchaser and/or his inspectors/representatives shall have the right to conduct a final inspection of the Property prior to closing to confirm the Property is in substantially the same or better condition as it was on the Binding Agreement Date, normal wear and tear excepted and to determine that all agreed upon repairs/replacements have been completed. Closing of this sale constitutes acceptance of the Property in its condition as of the time of closing, unless otherwise noted in writing.

5. **DISCLAIMER**: Seller(s) and Purchaser(s) acknowledge that they have not relied upon any advice or representations of any real estate licensee involved in this sale relative to (a) the legal or tax consequences of this contract and the sale, purchase, or ownership of the property, (b) the structural condition of the property, including the roof and basement, (c) construction materials, (d) the nature and operating condition of the electrical, heating, air conditioning, plumbing and water systems and appliances, (e) the age and square footage of the improvements, and the size or area of the property, (f) the availability of utilities or sewer service, (g) the character of the neighborhood, (h) the investment or resale value of the property, (i) any other matter affecting their willingness to sell or purchase the property on the terms and price herein set forth. Seller(s) and Purchaser(s) acknowledge that if such matters are of concern to them in the decision to sell or purchase the property, they have sought and obtained independent advice relative thereto.

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Purchaser(s) initials   Seller(s) initials **KMWM**

6. **FUNDS AT CLOSING**: Payment of the balance due at closing of the property shall be by certified funds or by wire transfer. Wire transfers shall be sent to the closing agent's account at least 24 hours prior to closing. No actual cash or personal checks will be accepted unless nominal in amount and specifically approved by the closing agent.

7. **PRORATION**: All taxes, any association dues/fees and rents will be prorated as of the consummation of the sale. The tax proration herein called for will be based upon information obtained from the Tax Assessor or Tax Collector's office. Any changes in such assessment after closing will be adjusted accordingly between Seller and Purchaser.

8. **RISK OF LOSS**: Seller agrees to keep in force sufficient hazard insurance on the property to protect all interests until the sale is closed and the deed delivered. If the property is destroyed or materially damaged between the date hereof and the closing, and Seller is unable or unwilling to restore it to its previous condition prior to closing, Purchaser will have the option of canceling this contract and receive back the earnest money, or accepting the property in its then condition. If Purchaser elects to accept the property in its damaged condition, any insurance proceeds otherwise payable to Seller by reason of such damage will be applied to the balance of the purchase price or otherwise be payable to Purchaser.

9. **SYSTEMS, EQUIPMENT AND APPURTENANCES**: The following items are included in this sale, if present: all heating and cooling equipment, water heaters, door bells, mantels, light fixtures and bulbs and ceiling fans, including fan remote controls; storm doors, garage door openers and remote controls, range, oven, installed dishwasher, permanently installed refrigerator, and all other built-in kitchen appliances; framed bathroom mirrors and permanently attached plate glass mirrors; all bathroom fixtures; blinds, window treatments and hardware; all wall-to-wall carpet; all gas logs, fireplace doors and attached screens; all security system components and controls; permanently installed hot tub, above ground swimming pool and its equipment; permanently installed outdoor water features, awnings, permanently installed outdoor cooking grills; seller owned propane tanks; all landscaping and all outdoor lighting, both wired and solar; mail boxes; attached basketball goals and backboards; TV antennae and Seller owned satellite dishes (excluding components); central vacuum systems and attachments. There shall be no substitutions or replacements of any of the above without the express written agreement of the parties. Items which do not belong to the Seller, such as leased security systems, satellite system, water softener systems, fuel tank, etc., do not convey and are not a part of this contract.

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Purchaser(s) initials   Seller(s) initials **KMWM**

10. **SELLER WARRANTIES** that Seller has not received from any lawful authority notification regarding any assessments, pending public improvements, repairs, replacements or alterations to the property that have not been satisfactorily made.

11. **DEFAULT**: Should either the Seller or Purchaser fail to carry out the terms of this contract in accordance with all its provisions, an aggrieved party shall have the option to do one of the following:

- a) File a proceeding in a Court of competent jurisdiction provided (a) the proceedings are non-jury and **THE RIGHT TO TRIAL BY JURY IS WAIVED**, (b) the amount in controversy (excluding funds held as earnest money) does not exceed \$3,000.00 and (c) no licensed real estate professional is a party, except as a stake holder of earnest money; OR,
- b) Reaffirm the contract and proceed through *binding arbitration under paragraph 13 for the recovery of damages and/or for specific performance*. The damages in either instance may include any cost(s) incurred by the non-breaching party including reasonable attorney's fees.

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Purchaser(s) initials   Seller(s) initials KMWN

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b) Reaffirm the contract and proceed through binding arbitration under paragraph 13 for the recovery of damages and/or for specific performance. The damages in either instance may include any cost(s) incurred by the non-breaching party including reasonable attorney's fees.





# ADDENDUM # \_\_\_\_\_ TO CONTRACT



That certain contract for sale of real property, located at 2204 seminoleDrive to include L 3,4, and 5 B 176

between Seller(s): Kevin and Wanda McIntosh

and Purchaser(s): The City of Huntsville COMMUNITY DEVELOPMENT

is hereby amended as follows:

"Federal funds are used for purchase of this property and purchase is subject to any and all federal regulations and the receipt of federal funds by Purchaser. Purchase must be closed by 5:00 p.m. cst May 1, 2014 or terms of the purchase will be voided."

All other terms and conditions remain in full force and effect.

IN WITNESS WHEREOF this Addendum is executed 04/14/2014

Date

[Signature box]

Witness

[Signature box]

Witness

[Signature]

Witness

[Signature]

Witness

ATC

[Signature box]

Purchaser

[Signature box]

Purchaser

*Kevin McIntosh* dotloop verified 04/14/14 5:21PM EDT 22ZT-ZDDR-GAFP-QE85

Seller

*Wanda McIntosh* dotloop verified 04/16/14 3:23PM EDT 0YCR-71Y-DR30-MERQ

Seller

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(Revised 11/10)